

ESTTA Tracking number: **ESTTA515715**

Filing date: **01/11/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	HeadBlade, Inc.
Granted to Date of previous extension	01/13/2013
Address	3623 Eastham Drive Culver City, CA 90232 UNITED STATES
Attorney information	Alexa L. Lewis Mitchell Silberberg & Knupp LLP 11377 West Olympic Boulevard Los Angeles, CA 90064-1625 UNITED STATES all@msk.com, kls@msk.com, ejg@msk.com, gxb@msk.com Phone:(310) 312-2000

Applicant Information

Application No	85514465	Publication date	07/17/2012
Opposition Filing Date	01/11/2013	Opposition Period Ends	01/13/2013
Applicants	Stewart, Tiffany 7308 Seneca Falls Loop Austin, TX 78739 UNITED STATES Stewart, Mel 7308 Seneca Falls Loop Austin, TX 78739 UNITED STATES		


Goods/Services Affected by Opposition


Class 025. All goods and services in the class are opposed, namely: (Based on Intent to Use) Clothing, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms, and swimsuits
Class 041. First Use: 2011/12/10 First Use In Commerce: 2011/12/28 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Information services, namely, providing a web site featuring audio, video, photographic and prose presentations featuring aquatic sports, namely, swimming, diving, water polo, and synchronized swimming

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3911141	Application Date	06/14/2010
Registration Date	01/25/2011	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a head design half black and half white with a black circle surrounding the design.		
Goods/Services	Class 008. First use: First Use: 2001/00/00 First Use In Commerce: 2001/00/00 Non-electric razors and electric hair clippers		

U.S. Registration No.	3592007	Application Date	05/04/2007
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a design of a man's head that is partially shaded with a design of a circle around the head.		
Goods/Services	Class 025. First use: First Use: 2003/04/04 First Use In Commerce: 2003/04/04 Clothing, namely, caps, shirts, shorts, T-shirts, headbands, sweatshirts, jackets, and sweatpants		

U.S. Registration No.	3072492	Application Date	06/24/2004
Registration Date	03/28/2006	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 2003/04/04 First Use In Commerce: 2003/04/04 Toiletries, namely, shaving cream, moisturizing cream, soaps, sunscreen, body wash, self-tanner, and after-tan moisturizer

Attachments	85062709#TMSN.jpeg (1 page)(bytes) 77173402#TMSN.jpeg (1 page)(bytes) 76599147#TMSN.gif (1 page)(bytes) HeadBlade v. Stewart (Swim Swam) - Notice of Opposition re App # 85-514,465 (5070672).PDF (9 pages)(75686 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ Alexa L. Lewis
Name	Alexa L. Lewis
Date	01/11/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 85/514,465
Published for Opposition in the OFFICIAL GAZETTE
on July 17, 2012

HEADBLADE, INC.

Opposition No.:

Opposer,

Mark:

v.

STEWART, TIFFANY
STEWART, MEL



Applicant.

NOTICE OF OPPOSITION

Headblade, Inc. (“HeadBlade” or “Opposer”), a California corporation having its principal place of business at 3623 Eastham Drive, Culver City, CA 90232, believes it would be damaged by the registration of the mark shown in Application Serial No. 85/514,465 filed by Tiffany Stewart and Mel Stewart (“Applicant”) and hereby opposes same.

As grounds for this opposition it is alleged:

1. HeadBlade is the owner of U.S. registrations in the U.S. Patent and Trademark Office (“PTO”) for the following mark:



Specifically, HeadBlade owns Reg. No. 3,911,141 in connection with “Non-electric razors and electric hair clippers;” Reg. No. 3,592,007 in connection with “Clothing, namely, caps, shirts, shorts, T-shirts, headbands, sweatshirts, jackets, and sweatpants;” and Reg. No. 3,072,492 in connection with “Toiletries, namely, shaving cream, moisturizing cream, soaps, sunscreen, body wash, self-tanner, and after-tan moisturizer.” As proof of status and title, attached as Exhibit A hereto and incorporated by reference herein are true and correct copies of these Registrations. (The marks identified above hereinafter are designated as the “Marks” for purposes of this pleading.)

2. HeadBlade has expended considerable funds and made significant efforts in promoting and advertising HeadBlade’s goods identified by the Marks. These goods have enjoyed enormous commercial success and have been the subject of substantial, unsolicited media attention. As a result, HeadBlade has established an enviable reputation, acquired substantial goodwill, and attained distinctiveness and fame in each of the Marks throughout the entire United States.

3. HeadBlade's rights in the Marks notwithstanding, on or about January 11, 2012, Applicant filed an application (the "Application") with the United States Patent and Trademark Office ("USPTO") to register the following mark for goods in International Classes 25 and 41:



(the "Opposed Mark"). The Class 25 goods covered in the application, filed on an intent-to-use basis, are "Clothing, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms, and swimsuits." The Class 41 services covered in the application, purportedly first used on December 28, 2011, are "Information services, namely, providing a web site featuring audio, video, photographic and prose presentations featuring aquatic sports, namely, swimming, diving, water polo, and synchronized swimming."

4. HeadBlade's rights for the Marks are prior to any rights of Applicant to the Opposed Mark.

5. In view of the similarities between, on the one hand, each of the Marks, and, on the other hand, the Opposed Mark that is the subject of the Application, and the relationship between HeadBlade's goods as identified by the Marks and the goods and services identified in the Application, it is likely that members of the public will

erroneously believe that Applicant's goods and services originate with, or are in some manner connected or associated with, or sponsored by, HeadBlade, all to the harm of HeadBlade's goodwill and reputation.

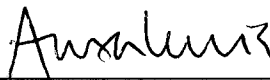
6. Applicant's Opposed Mark so resembles each of the Marks when used on or in connection with Applicant's goods as to be likely to cause confusion, mistake or to deceive, and is therefore precluded from registration under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

7. If Applicant is granted registration of the Opposed Mark, it would obtain a prima facie exclusive right to use of its mark that would cause damage and injury to HeadBlade.

WHEREFORE registration by Applicant of the aforesaid trademark for the aforesaid goods and services will be damaging to Opposer and Opposer, therefore, requests that the Opposition be sustained and application Serial No. 85/514,465 be denied registration. Opposer submits herewith the requisite filing fee; please charge any additional fees or credit overpayment to Deposit Account No. 13-3735.

Dated: January 11, 2013

Respectfully submitted,



Alexa L. Lewis, Esq.
Mitchell, Silberberg & Knupp, LLP
11377 W. Olympic Boulevard
Los Angeles, CA 90064
310-312-3200
Attorneys for Opposer

Exhibit A

Exhibit A

United States of America

United States Patent and Trademark Office



Reg. No. 3,911,141

Registered Jan. 25, 2011

Int. Cl.: 8

TRADEMARK

PRINCIPAL REGISTER

HEADBLADE, INC. (CALIFORNIA CORPORATION)
3623 EASTHAM DRIVE
CULVER CITY, CA 90232

FOR: NON-ELECTRIC RAZORS AND ELECTRIC HAIR CLIPPERS, IN CLASS 8 (U.S. CLS. 23, 28 AND 44).

FIRST USE 0-0-2001; IN COMMERCE 0-0-2001.

THE MARK CONSISTS OF A HEAD DESIGN HALF BLACK AND HALF WHITE WITH A BLACK CIRCLE SURROUNDING THE DESIGN.

SER. NO. 85-062,709, FILED 6-14-2010.

KEVON CHISOLM, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,592,007

Registered Mar. 17, 2009

**TRADEMARK
PRINCIPAL REGISTER**



HEADBLADE, INC. (CALIFORNIA CORPORATION)
3623 EASTHAM DRIVE
CULVER CITY, CA 90232

FOR: CLOTHING, NAMELY, CAPS, SHIRTS,
SHORTS, T-SHIRTS, HEADBANDS, SWEATSHIRTS,
JACKETS, AND SWEATPANTS, IN CLASS 25 (U.S.
CLS. 22 AND 39).

FIRST USE 4-4-2003; IN COMMERCE 4-4-2003.

THE MARK CONSISTS OF A DESIGN OF A
MAN'S HEAD THAT IS PARTIALLY SHADED
WITH A DESIGN OF A CIRCLE AROUND THE
HEAD.

SN 77-173,402, FILED 5-4-2007.

CHRISTOPHER BUONGIORNO, EXAMINING AT-
TORNEY

Int. Cl.: 3

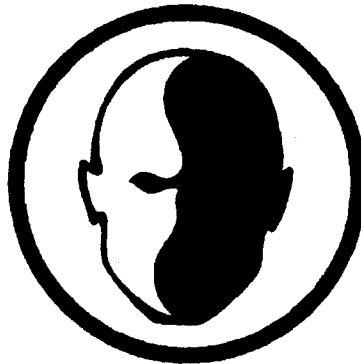
Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,072,492

Registered Mar. 28, 2006

**TRADEMARK
PRINCIPAL REGISTER**



THE HEADBLADE CO., LLC (CALIFORNIA LTD
LIAB CO)
1629 A ELECTRIC AVENUE
VENICE, CA 90291

FOR: TOILETRIES, NAMELY, SHAVING
CREAM, MOISTURIZING CREAM, SOAPS, SUNSC-
REEN, BODY WASH, SELF-TANNER, AND AFTER-

TAN MOISTURIZER, IN CLASS 3 (U.S. CLS. 1, 4, 6,
50, 51 AND 52).

FIRST USE 4-4-2003; IN COMMERCE 4-4-2003.

SER. NO. 76-599,147, FILED 6-24-2004.

ROBERT COGGINS, EXAMINING ATTORNEY

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on January 11, 2013.


Kimberly Stewart

CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2013, a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served upon Applicant by U.S. Mail to the following address:

Tiffany Stewart
7308 Seneca Falls Loop
Austin, Texas 78739-2216


Kimberly Stewart